

REMARKS

Claims 1 to 5, 7 to 9, 11 to 17 and 19 to 37 are under examination.
Claims 38 to 50, which were previously withdrawn, have been canceled herein without prejudice.

Written Description Rejection

The only issue remaining in this case is written description. Specifically, claims 1 to 5, 7 to 9, 11 to 17 and 19 to 37 are rejected under 35 U.S.C. 112, first paragraph. More specifically, the Action alleges that “the subgenus having 95% homology is not supported by the original specification.” Applicants respectfully traverse the rejection.

The Action requests that Applicants “point to such specific support within the referred to parent application” to overcome this rejection. In response, Applicants first note that sec. 2163.07(b) of the MPEP provides that a reference that is incorporated by reference is as if the application contained the text of the document being incorporated.

Page 13, line 28 of the subject application incorporates PCT/US99/06189 by reference. In turn, page 17, line 14 of PCT/US99/06189 incorporates U.S. App. Ser. No. 09/258,892 by reference. Page 59, line 5 of U.S. App. Ser. No. 09/258,892 discloses having at least 95% homology to SEQ ID NO:10. As pointed out in the previous response, SEQ ID NO:10 of U.S. Ser. No. 09/258,892 is identical to the recited SEQ ID NO:1 of the subject claims.

Because the pending claims are adequately supported by the written description of the subject application, Applicants respectfully request that this rejection be withdrawn.

All of the issues raised in the Office Action have been addressed and are believed to have been overcome. Accordingly, it is respectfully submitted that all the claims under examination in the subject application are allowable. Therefore Applicants respectfully request a Notice of Allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sol Sheinbein', with a long horizontal flourish extending to the right.

Sol Sheinbein
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Date: January 5, 2005